



State of Wisconsin Department of Public Instruction

Elizabeth Burmaster, State Superintendent

October 1, 2003

The Honorable Michael Ellis
The Honorable Robert Jauch
Wisconsin Senate
State Capitol
Madison, WI 53702

Dear Senator Ellis and Senator Jauch:

Thank you for your September 24, 2003, letter, in which you express concerns regarding Alex's Academics of Excellence, a private school participating in the Milwaukee Parental Choice Program (MPCP). You also raised questions regarding the Department of Public Instruction's (department's) authority to regulate MPCP schools to ensure that students who attend these private schools receiving state dollars are provided a quality education. In addition to responding to your inquiries, I ask you, in my capacity as state superintendent, to consider the regulatory authority I am requesting at the end of the letter.

You specifically ask what action the department is authorized to take when a private school participating in the MPCP fails to meet a program requirement. Depending on the requirement, the department has the authority to either determine a private school is ineligible to participate in the program or withhold a school's MPCP payments. In only two instances is the department authorized to determine that a school is ineligible to participate in the program. First, if a *new* private school fails to file a certificate of occupancy by August 1, the school may not participate in the program that school year. Second, *any* private school that fails to meet one of the four statutory standards under sec. 119.23(7)(b), Wis. Stat., may not participate in the program in the *following* year.

The department does not have authority to remove a school from the program during the school year for failing to meet reporting requirements. Rather, under Wisconsin Administrative Code PI 35.05(3), the department is directed to withhold MPCP payments if a school fails to comply with certain program requirements, including the timely submission of the school's financial information report. If a school fails to meet such a program requirement and the department withholds MPCP payments, the department will notify the school of the possibility of appealing the department's decision. Once a school complies with the program requirement, payments are released.

You also asked whether the department believes there is sufficient statutory and rule authority to protect the health, safety, and welfare of MPCP students. I believe, when the MPCP was created, there was an intent to limit the department's regulation of private schools participating in the program. I also believe, as mentioned previously, that expanded regulatory authority is warranted. I ask you to consider the following recommended regulatory framework that will protect children and provide a quality control mechanism for the program.

Student health, safety, and welfare protection measures:


- Require background checks of all adults interested in working at MPCP schools and prohibit any adult charged with a crime listed under sec. 115.31(2g), Wis. Stat., from working in a MPCP school.
- Require all schools, annually by August 1, to submit copies of certificates of occupancy for all school buildings.

Fiscal and administrative accountability measures:

- Develop an accreditation system that would include:
 - The requirement that new schools submit a business plan that will help ascertain the financial viability of the school.
 - The requirement that all schools submit a financial audit report conducted on behalf of the school by an independent CPA instead of the currently required financial information report.
- Require schools to demonstrate financial viability through the receipt of tuition revenues.
- Clarify the penalties for schools failing to meet program requirements, including delaying payments until the next quarterly payment.
- Clarify the standard by which repeated failures to comply with program requirements becomes so detrimental and severe that schools would be removed from the program.

Thank you again for sharing your thoughts and concerns regarding the MPCP. I appreciate the opportunity to provide the requested recommendations. My staff and I would be happy to discuss this information in further detail.

Sincerely,



Elizabeth Burmaster
State Superintendent

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